

1 WILLIAM A. ISAACSON (*Pro Hac Vice*)
(wisaacson@bsflp.com)
2 STACEY K. GRIGSBY (*Pro Hac Vice*)
(sgrigsby@bsflp.com)
3 NICHOLAS A. WIDNELL (*Pro Hac Vice*)
(nwidnell@bsflp.com)
4 BOIES, SCHILLER & FLEXNER LLP
5 1401 New York Avenue, NW, Washington, DC 20005
Telephone: (202) 237-2727; Fax: (202) 237-6131
6
7 RICHARD J. POCKER #3568
(rpocker@bsflp.com)
8 BOIES, SCHILLER & FLEXNER LLP
300 South Fourth Street, Suite 800, Las Vegas, NV 89101
9 Telephone: (702) 382-7300; Fax: (702) 382-2755
10
11 DONALD J. CAMPBELL #1216
(djc@campbellandwilliams.com)
12 J. COLBY WILLIAMS #5549
(jcw@campbellandwilliams.com)
CAMPBELL & WILLIAMS
13 700 South 7th Street, Las Vegas, NV 89101
Telephone: (702) 382-5222; Fax: (702) 382-0540
14
15 *Attorneys for Defendant Zuffa, LLC, d/b/a*
Ultimate Fighting Championship and UFC
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

Cung Le, Nathan Quarry, Jon Fitch, Brandon
Vera, Luis Javier Vazquez, and Kyle
Kingsbury on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

Zuffa, LLC, d/b/a Ultimate Fighting
Championship and UFC,

Defendant.

Case No.: 2:15-cv-01045-RFB-(PAL)

**ZUFFA, LLC'S MOTION TO
SEAL PORTIONS OF MOTION
FOR PARTIAL SUMMARY
JUDGMENT AS TO PLAINTIFF
NATHAN QUARRY ON
STATUTE OF LIMITATIONS
GROUNDS AND SUPPORTING
MEMORANDUM OF LAW AND
RELATED EXHIBITS**

1 **I. Introduction**

2 Pursuant to the Stipulated Order governing confidentiality of documents entered by the
 3 Court on February 10, 2016, ECF No. 217 (“Protective Order”) and Rule 26(c) of the Federal
 4 Rules of Civil Procedure, Defendant Zuffa, LLC (“Zuffa”) respectfully requests that the Court
 5 order the Clerk of Court to file under seal Exhibits A through F and H through J to its Motion for
 6 Partial Summary Judgment As to Plaintiff Nathan Quarry on Statute of Limitations Grounds And
 7 Supporting Memorandum of Law (“Zuffa’s Motion”) as well as portions of (1) Zuffa’s Motion,
 8 (2) the Kirk D. Hendrick Declaration In Support of Zuffa’s Motion (Exhibit K), and (3) the
 9 Statement of Undisputed Material Facts in Support of Zuffa’s Motion (“SUF”). This motion is
 10 accompanied by the Declaration of Nicholas A. Widnell in Support of Zuffa, LLC’s Motion to
 11 Seal Portions of Motion for Partial Summary Judgment As to Plaintiff Nathan Quarry on Statute
 12 of Limitations Grounds And Supporting Memorandum of Law And Related Exhibits (“Widnell
 13 Declaration”).

14 **II. Legal Standard**

15 Documents filed in connection with a dispositive motion may be sealed if there are
 16 “compelling reasons” to seal those documents. *Kamakana v. City & Cty. of Honolulu*, 447 F.3d
 17 1172, 1179 (9th Cir. 2006) (citation omitted). Documents attached to summary judgment
 18 motions are evaluated under this “compelling reasons” standard. *Id.* (citation omitted).

19 The “compelling reasons” standard requires a party to “articulate compelling reasons
 20 supported by specific factual findings that outweigh the general history of access and the public
 21 policies favoring disclosure.” *Id.* at 1178-79 (citations and quotation marks omitted).
 22 “Compelling reasons” have included preventing: disclosure of “sources of business information
 23 that might harm a litigant’s competitive standing,” *Nixon v. Warner Commc’ns, Inc.*, 435 U.S.
 24 589, 598 (1978) (citations omitted); the “release of trade secrets,” *Kamanaka*, 447 F.3d at 1179
 25 (citing *Nixon*, 435 U.S. at 598); and “the release of . . . information [that] would result in an
 26 invasion of the privacy interests of third parties.” *GoDaddy.com LLC v. RPost Commc’ns Ltd.*,
 27 No. CV-14-00126-PHX-JAT, 2016 WL 1158851, at *5 (D. Ariz. Mar. 24, 2016), on

28

1 reconsideration in part, No. CV-14-00126-PHX-JAT, 2016 WL 1274120 (D. Ariz. Mar. 31,
 2 2016).

3 The Ninth Circuit has held that certain “confidential and commercially sensitive
 4 information,” including licensing agreements containing “pricing terms, royalty rates, and
 5 guaranteed minimum payment terms” meet the “compelling reasons” standard and are properly
 6 filed under seal. *In re Elec. Arts, Inc.*, 298 F. App’x 568, 569 (9th Cir. 2008) (“Electronic Arts”).
 7 The Ninth Circuit noted that these categories of information “plainly fall[] within the definition of
 8 ‘trade secrets’ and explained that “a trade secret may consist of any formula, pattern, device or
 9 compilation of information which is used in one’s business, and which gives him an opportunity
 10 to obtain an advantage over competitors who do not know or use it.” *Id.* (citations and quotation
 11 marks omitted).

12 **III. Argument**

13 Zuffa seeks to file under seal, in whole or in part, three types of documents that meet the
 14 compelling reasons standard, as described below.¹

15 **A. Contracts Between Zuffa And Mr. Quarry**

16 Exhibits A through D and F are signed contracts between Zuffa and Mr. Quarry. These
 17 contracts contains confidential and commercially sensitive information regarding Zuffa’s
 18 contractual clauses with its athletes and information regarding Zuffa’s athlete compensation
 19 terms, royalty rates, and other payment terms. Zuffa’s trade secret information is contained
 20 within these Exhibits and the public release of that confidential business information would result
 21 in competitive harm to Zuffa by providing its competitors with access to Zuffa’s pricing structure
 22 and contractual terms – two crucial elements of Zuffa’s proprietary business practices that have
 23 allowed it to compete in the marketplace for MMA athletes. Table A provides a summary of the
 24 information contained in each Exhibit that justifies sealing the exhibit.

25
 26

¹ Zuffa does not move to seal excerpts of Mr. Quarry’s deposition taken on September 30, 2016,
 27 which is included as Exhibit G to Zuffa’s Motion. Plaintiffs have not served Zuffa with any
 28 confidentiality designations and Zuffa has not designated any of the excerpted portions as
 confidential.

Table A

Exhibit	Information in the Exhibit Justifying Sealing
Exhibit A: 2008 Agreement: LEPLAINTIFFS-0048763	This Agreement discusses the duration and nature of Mr. Quarry's relationship with Zuffa and explains Zuffa's promotional obligations to Mr. Quarry. In addition, the Agreement defines the scope and nature of Mr. Quarry's identity rights vis-à-vis Zuffa and provides detailed information about Mr. Quarry's compensation for participation in bouts promoted by Zuffa, and other contractual terms.
Exhibit B: 2008 Agreement: LEPLAINTIFFS-0048947	The Agreement discusses the scope, nature, and content of Mr. Quarry's identity rights vis-à-vis Zuffa as well as the royalty rates and royalty calculations Zuffa is obligated to use with respect to Mr. Quarry's identity rights, and other contractual terms.
Exhibit C: 2010 Agreement: ZFL-0390586	This Agreement discusses the specific rights and obligations – <i>inter alia</i> identity rights and compensation – of Mr. Quarry and Zuffa with respect to a specific bout, and other contractual terms.
Exhibit D: 2004 Agreement: ZFL-0003037	This Agreement discusses the duration and nature of Mr. Quarry's relationship with Zuffa and explains Zuffa's promotional obligations to Mr. Quarry. In addition, the Agreement defines the scope and nature of Mr. Quarry's identity rights vis-à-vis Zuffa and provides detailed information about Mr. Quarry's compensation for participation in bouts promoted by Zuffa, and other contractual terms.
Exhibit F: 2005 Agreement: ZFL-0003087	This Agreement discusses the duration and nature of Mr. Quarry's relationship with Zuffa and explains Zuffa's promotional obligations to Mr. Quarry. In addition, the Agreement defines the scope and nature of Mr. Quarry's identity rights vis-à-vis Zuffa and provides detailed information about Mr. Quarry's compensation for participation in bouts promoted by Zuffa, and other contractual terms.

1 **B. Internal Zuffa Business Communications And Documents Regarding
2 Payments to the Mr. Quarry**

3 Exhibits E, H, I and J are confidential and sensitive business communications and
4 documents that contain payment information for Mr. Quarry as well as payment information for
5 other athletes under contract with Zuffa. Specifically, Exhibits E and J contain references to and
6 partial descriptions of specific clauses in Mr. Quarry's contacts with Zuffa and payment amounts
7 pursuant to those clauses made to Mr. Quarry. Exhibits H and I, which consist of an e-mail and
8 an attachment to that e-mail, contain Zuffa's internal business records that contain specific
9 financial information regarding payments Zuffa made to Mr. Quarry and Zuffa's way of tracking
10 such payments. Exhibit J is a letter to Mr. Quarry that contains a description of a specific
11 confidential agreement between Zuffa and Mr. Quarry as well as the exact amount of a payment
made to Mr. Quarry pursuant to that agreement.

12 Exhibits E, H, I and J all contain trade secret information, disclosure of which would
13 provide significant advantages to Zuffa's competitors. In addition, these exhibits contain
14 payment information related to confidential royalty rates agreed upon by Zuffa and Mr. Quarry.
15 In sum, the information contained in these Exhibits is sufficiently sensitive to Zuffa that
16 "compelling reasons" justify sealing.

17 **C. Discussions Of Documents From The Categories Above**

18 Zuffa has redacted portions of Zuffa's Motion, Exhibit K to Zuffa's Motion, and the SUF
19 that reflect the confidential information discussed above. In addition, Zuffa has redacted portions
20 of those documents that reflect Zuffa's sensitive business information, disclosure of which would
21 result in competitive harm to Zuffa. Zuffa has made its redactions in as narrow a manner as
22 possible.

23 **IV. Conclusion**

24 For the foregoing reasons, Zuffa respectfully requests that the Court seal Exhibits A
25 through F and H through J to Zuffa's Motion as well as the designated portions of Zuffa's
26 Motion, Exhibit K to Zuffa's Motion, and the SUF.

27
28

1 Dated: February 1, 2017

BOIES, SCHILLER & FLEXNER LLP

3 By:/s/ Nicholas A. Widnell

4 Nicholas A. Widnell

5 *Attorneys for Defendant Zuffa, LLC, d/b/a*
Ultimate Fighting Championship and UFC

6 William A. Isaacson (*Pro Hac Vice*)
7 Stacey K. Grigsby (*Pro Hac Vice*)
8 Nicholas A. Widnell (*Pro Hac Vice*)
BOIES, SCHILLER & FLEXNER LLP
1401 New York Ave, NW,
Washington, DC 20005
Tel: (202) 237-2727
Fax: (202) 237-6131
Email: nwidnell@bsfllp.com

12 Donald J. Campbell #1216
J. Colby Williams #5549
13 CAMPBELL & WILLIAMS
700 South 7th Street
14 Las Vegas, Nevada 89101
Tel: (702) 382-5222
15 Fax: (702) 382-0540
Email: djc@campbellandwilliams.com
jcw@campbellandwilliams.com

18 Richard J. Pocker #3568
BOIES, SCHILLER & FLEXNER LLP
19 300 South Fourth Street, Suite 800
Las Vegas, NV 89101
20 Tel: (702) 382-7300
Fax: (702) 382-2755
21 Email: rponce@bsfllp.com

22 *Attorneys for Defendant Zuffa, LLC, d/b/a Ultimate*
23 *Fighting Championship and UFC*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing (1) Zuffa, LLC's Motion to Seal Portions of Motion for Partial Summary Judgment As to Plaintiff Nathan Quarry on Statute of Limitations Grounds And Supporting Memorandum of Law And Related Exhibits was served on February 1, 2017 via the Court's CM/ECF electronic filing system addressed to all parties on the e-service list.

/s/ Michael Kim

Michael Kim, an Employee of Boies, Schiller & Flexner LLP